UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

BRADLEY LeDURE, Plaintiff, v. UNION PACFIC RAILROAD COMPANY, Defendant.	)	Case No: 17-CV-737 **FEDERAL EMPLOYERS' LIABILITY ACT** **JURY TRIAL DEMANDED**

COMPLAINT

Plaintiff Bradley LeDure, by and through his attorneys, Schlichter Bogard & Denton, and for his Complaint against Defendant Union Pacific Railroad Company, states as follows:

Jurisdiction

1. This action arises under the Federal Employers' Liability Act ("FELA"), 45 U.S.C. §§ 51-60.

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331.

Venue

3. Venue of this action properly lies in the United States District Court for the Southern District of Illinois pursuant to 28 U.S.C. § 1391(b) because:

(a) The Defendant resides within this district; and

(b) Plaintiff was injured in Salem, Illinois, therefore a substantial part of the events or omissions giving rise to the claims occurred within this district.

Parties

4. At all times relevant, Defendant was a corporation organized and existing under the law and operates a railroad business in several states, including the State of Illinois, and is

engaged in interstate transportation and commerce in Illinois.

5. At all times relevant, and at the time he was injured, Plaintiff was a resident and citizen of Scott City, Missouri.

6. Plaintiff, an engineer employee of Defendant, was working in furtherance of Defendant's interstate transportation and commerce at the time of his injury on or about August 12, 2016.

COUNT I – FEDERAL EMPLOYERS' LIABILITY ACT

7. On or about August 12, 2016, Plaintiff was performing his duties as an engineer for Defendant and was acting in the course and scope of his employment in Salem, Illinois, when he was caused to lose his footing on the step of an engine operated by Defendant, lost his balance, and sustained injuries to his knees, shoulders, spine, neck, and head.

8. The steps of the engine on which Plaintiff was injured were in a worn and defective state and failed to contain sufficient traction to allow Plaintiff to safely ascend and descend the steps.

9. Plaintiff's injuries were caused, in whole or in part, by one or more of the following violations of federal railroad safety laws and acts or omissions of negligence on the part of Defendant, in that Defendant, its agents, servants and/or employees:

(a) Failed to provide Plaintiff with a reasonably safe place to work;

(b) Failed to provide Plaintiff with reasonably safe conditions to work;

(c) Failed to provide Plaintiff with reasonably safe and suitable equipment;

(d) Failed to adequately maintain, inspect, and/or repair its equipment with which Plaintiff was required to work;

(e) Failed to maintain its locomotive parts and appurtenances in a condition that was safe to operate without unnecessary danger of personal injury, in violation of 49 U.S.C. § 20701, 49 C.F.R. § 229.7; 49 C.F.R. § 229.9; and 49 C.F.R. § 229.45;

(f) Permitted the use of a locomotive which had not been adequately inspected, in violation of 49 C.F.R. § 229.21; 49 C.F.R. § 229.23; and 49 C.F.R. § 229.25;

(g) Permitted the use of a locomotive which was not free of conditions that endangered the safety of the crew, locomotive, and train, in violation of 49 C.F.R. § 229.45;

(h) Failed to keep its floors of cabs, passageways, and compartments free from any obstruction that creates a slipping, tripping, or fire hazard, in violation of 49 C.F.R. § 119(c), constituting negligence per se; and

(i) Failed to properly treat the floors of its locomotive and provide secure footing, in violation of 49 C.F.R § 8.119(c).

10. As a result, in whole or in part, of one or more of the foregoing negligent acts or omissions, Plaintiff suffered painful, progressive, permanent, and disabling injuries to his knees, shoulders, spine, neck, and head; he has sustained injuries to the soft tissues, ligaments, tendons, muscles, and blood vessels of his knees, shoulders, spine, neck, and head; he has been caused to undergo severe pain and suffering; he has sought and received medical care and attention and will continue to receive medical care and attention; he has suffered psychological and emotional injury, mental anguish, and anxiety and will continue to suffer psychological and emotional injury, mental anguish, and anxiety in the future; he has incurred medical expenses and will continue to incur medical expenses; he has lost and will continue to lose wages, benefits, and earning capacity, all to his damage.

WHEREFORE, Plaintiff Bradley LeDure, prays for judgment against Defendant Union Pacific Railroad Company on Count I of his Complaint, in an amount which is fair and reasonable in excess of $75,000, plus all applicable court costs.

COUNT II – LOCOMOTIVE INSPECTION ACT

11. Plaintiff adopts and incorporates its previous allegations as set forth in paragraphs 1-10.

12. This count arises under the provisions of 49 U.S.C. § 20701 *et seq.*, commonly known as the Locomotive Inspection Act.

13. At the time of Plaintiff's injury, the engine on which he was injured was engaged in commerce and was being used to further Defendant's transportation commerce in Illinois.

14. Plaintiff's injuries were caused, in whole or in part, by one or more of the following conditions and defects existing on or about Defendant's locomotive, in violation of 49 U.S.C. § 20701 *et seq.*:

(a) Defendant's locomotive parts and appurtenances were not in proper condition and safe to operate without unnecessary danger of personal injury, in violation of 49 U.S.C. § 20701, 49 C.F.R. § 229.7; 49 C.F.R. § 229.9; and 49 C.F.R. § 229.45, constituting negligence per se;

(b) Defendant permitted the use of a locomotive that was not in proper condition and safe to operate in the service to which it was put in violation of 49 C.F.R. § 229.7 (a)(1) and (2), .9, and .45, constituting negligence per se;

(c) Defendant permitted the use of a locomotive that had not been adequately inspected in violation of 49 C.F.R. § 229.21; 49 C.F.R. § 229.23; 49 C.F.R. § 229.25, constituting negligence per se;

(d) Defendant permitted the use of a locomotive that was not free of conditions that endangered the safety of the crew, locomotive, and train in violation of 49 C.F.R. § 229.45, constituting negligence per se;

(e) Defendant failed to keep its floors of cabs, passageways, compartments, and steps free from any obstruction that creates a slipping or tripping hazard, in violation of 49 C.F.R. § 119(c), constituting negligence per se; and

(f) Defendant failed to properly treat the floors of its locomotive and provide secure footing, in violation of 49 C.F.R. § 8.119(c), constituting negligence per se.

15. That as a direct result of the foregoing violations of the Locomotive Inspection Act, Plaintiff suffered painful, progressive, permanent, and disabling injuries to his knees, shoulders, spine, neck, and head; he has sustained injuries to the soft tissues, ligaments, tendons, muscles, and blood vessels of his knees, shoulders, spine, neck, and head; he has been caused to undergo severe pain and suffering; he has sought and received medical care and attention and will continue to receive medical care and attention; he has suffered psychological and emotional injury, mental anguish, and anxiety and will continue to suffer psychological and emotional injury, mental anguish, and anxiety in the future; he has incurred medical expenses and will continue to incur medical expenses; he has lost and will continue to lose wages, benefits, and earning capacity, all to his damage.

WHEREFORE, Plaintiff Bradley LeDure, prays for judgment against Defendant Union Pacific Railroad Company on Count II of his Complaint in such sum which is fair and reasonable in excess of $75,000, plus all applicable court costs.

Dated: July 13, 2017

SCHLICHTER, BOGARD & DENTON, LLP

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